MR. SPEAKER.—After the Business Advisory Committee Meeting, I will tell you.

ಶ್ರೀ ವಿ. ಎಂ. ದೇವ್ (ಗುಬ್ಬಿ).—ನಾನು ಕಳುಹಿಸಿದ ಬಹಳ ಪ್ರಶ್ನೆಗಳಿಗೆ ಉತ್ತರ ಬಂದಿಲ್ಲ. ನಿರ್ಣಯ ಎರಡು ಸಲ ಕಳುಹಿಸಿದರೂ ಅವಕಾಶ ದೊರೆಯಲಿಲ್ಲ. ಪ್ರಶ್ನೆ ಮತ್ತು ಖಾಸಗಿ ಕಾರ್ಯಕಲಾಪಗಳಿಗೆ, ಸದಸ್ಯರು ಕಳುಹಿಸುವ ನಿರ್ಣಯ ಮುಂತಾದ್ದೆಲ್ಲಕ್ಕೂ ಸಾಕಷ್ಟು ಅವಕಾಶ ಕೊಡಬೇಕು.

MR. SPEAKER.— I will place this also before the Business Advisory Committee.

ಶ್ರೀ ಕುಂದೂರು ರುದ್ರಪ್ಪ (ಚೆನ್ನಗಿರಿ).— ಹತ್ತು ಪ್ರಶ್ನೆಗಳನ್ನು ಒಬ್ಬ ಸದಸ್ಯರು ಕಳುಹಿಸಬಹುದು. ಉತ್ತರ ಬಾರದಿದ್ದಲ್ಲಿ ಕಳಿಸಿ ಪ್ರಯೋಜನವೇನು? ಸರ್ಕಾರ ಜಾಗ್ರತೆ ಉತ್ತರ ಒದಗಿಸಬೇಕು. ಈಗ ಬೇಗ ಒದಗಿಸದಿರುವುದಕ್ಕೆ ಕಾರಣವೇನೆಂದು ವಿಚಾರಿಸಿ ಜಾಗ್ರತೆ ಉತ್ತರ ಕರಿಸಬೇಕೆಂದು ವಿನಂತಿ ಮಾಡುತ್ತೇನೆ.

MR. SPEAKER.—I will look into this also. I request every Hon'ble Member, without any exception, not to mention this question or similar question. They can send letters to me, they can meet me but not engage the House in this matter.

THE BANGALORE ACQUISITION OF LANDS (VALIDATION) BILL, 1962.

Motion to Consider.

Sri K. PUTTASWAMY (Minister for Municipal Administration).— Sir, I beg to move that the Bangalore Acquisition of Lands (Validation) Bill, 1962 be taken into consideration.

MR. SPEAKER.—Motion moved:

> "That the Bangalore Acquisition of Lands (Validation) Bill, 1962, be taken into consideration."

Sri K. PUTTASWAMY.—The necessity for bringing this measure is clearly stated in the Statement of Objects and Reasons. The City Improvement Trust Board of Bangalore came into existence in the year 1945. From 1945 to 1960 all acquisition of properties for purposes of City Improvement Trust Board have taken place under the Land Acquisition Act. Sir, a special procedure is prescribed under section 14 to 18 of the City Improvement Trust Board Act for acquisition of properties for purposes of lying out extensions or effect improvements in the city. Somehow, the Trust Board did not adopt that procedure and they had recourse to the procedure prescribed in sections 4 to 6 of the Land Acquisition Act, and there was a writ petition in the year 1960 before the High Court and this Hon'ble House passed a bill called 'The City of Bangalore Improvement Amendment Act 1960' which necessitated section 27A in the principal Act which sought to validate all the acquisitions that had taken place from 1945 to 1960.

Sir, this amendment Act has been considered by the High Court and the High Court has held that it was not valid and therefore insisting on bringing another new measure. The ground on which the City of Bangalore Improvement Act, 1960 was declared invalid was that it has not received the assent of the president because this item of legislation comes under the concurrent list, and it had to be reserved for the assent of the President. It had not been done and so the High Court has held it invalid. All the same, the Government had felt that they were on sure ground.

MR. SPEAKER.—It is a question of the Act being reserved for the assent of the President or asking the President to give his consent?

Sri K. PUTTASAWAMY.—It had been submitted to him for assent.

MR. SPEAKER.—Before introduction or after?

Sri K. PUTTASWAMY.—Not before introduction, but after it was passed. Prior to the passing of the Act, there was an ordinance. Before passing the ordinance, the High Court said, instruction of the President should have been obtained. Our Government has been advised that it was not necessary. Therefore we have preferred an appeal before the Supreme Court and the appeal on that judgment is pending before the Supreme Court. The City Improvement Trust Board is in possession of certain properties and they have to carry out improvement work and lay out and the work cannot be stopped till the Supreme Court decides the question. Therefore, by way of abundant precaution to enable the Trust Board to go ahead with the work, this Bill is placed before the House. This is a very simple measure and this seeks to validate all the acquisitions that the Trust Board has done from the year 1945 to up-to-date.

Sri D. PARAMESWARAPPA (Honnali).—The Minister has stated the reasons for bringing this Bill in the statement of objects and reasons. He has also made it clear to the House that certain writ petitions were filed before the High Court in this connection and against the decision of the High Court they have gone on appeal before the Supreme Court. My submission is that it amounts to *sub judice* and until it is finally decided by the Supreme Court, the Minister is not entitled to bring this Biil before this House.

MR. SPEAKER.—It is absolutely unfounded. We are not criticising the judgment but we are legislating. The fact that litigation is pending in any court does not curtail the rights of the Legislature. Sri Parameswarappa knows this very well.

Sri G. V. GOWDA (Palya).—The Hon'ble Minister has been pleased to say that this is a simple measure. But I venture to submit that this would put the Supreme Court in an embarrassment because the Government say that they have filed an appeal against the decision of the High Court before the Supreme Court.

MR. SPEAKER.—What kind of embarrassment the Hon'ble Member has in his mind?

Sri G. V. GOWDA.—If the Supreme Court confirms the decision of the High Court, then everything would become frustrated because we are validating.

MR. SPEAKER.—The Supreme Court has to take note of legislation by this house when it is passed and it my propose to express its opinion in view of the validating Act.

Sri G. V. GOWDA.—The Supreme Court will not be in a position to give its decision. The Supreme Court will not go into the merits of the case and what exactly is the position of law in respect of the matter raised. If the Government were to feel that there is no other alternative except to validate the Bill, they could have taken other remedies when they especially say that it involves the question of law. As soon as the High Court took the decision, they could have obtained a stay order and gone to Supreme Court. Naturally, they could have also given stay against the High Court's verdict and this could have been done pending decision of the Supreme Court.

MR. SPEAKER.—What is the operation of the stay? It will be limited to individual case.

Sri G. V. GOWDA.—The Minister said at one stage, because for want of President's assent, the High Court negatived. In the Objects and Reasons it has been stated that because the insertion of new section 27 A contravened the provisions of article 14 of the Constitution, the High Court has negatived our stand.

Now, the Minister says for want of President's assent, the High Court has said that what the Government have done is illegal. At another stretch he says that because they could not obtain President's concurrence to the promulgation of the ordinance, this is the result. What the Minister has said is just contradictory to what has been stated in the Statement of Objects and Reasons. Whatever has been the case, the Government could have asked for a stay and continued the operations as per the City Improvement (Amendment) Act. Even when that Act was adopted in this House some of the Hon'ble Members including myself vehemently opposed the retrospective effect as it was unconstitutional and contravened the provisions of the constitution and it has been held by the High Court that it contravened article 14 of the constitution. Nevertheless, when special provisions had been made in the Bangalore City Improvement Act for acquisition of land, without following those provisions, to acquire land under Land Acquisition Act is something that cannot be reconciled with. What action the Government have taken against those officers for deviating from the procedure? Why should they take steps under the Land Acquisition Act? No steps have been taken against the officers concerned for having deviated from the procedure enunciated in the Act and brought about these complications. After five or six years, the Government want to validate the action taken by introducing Section 27 A. Even now, the High Court said that it contravenes the provisions of article 14 of the constitution. It is a question involving interpretation of article 14. Definitely it would embarrass the Supreme Court in giving a decision in this matter. Therefore, I submit that after all the Government could have obtained a stay order and could have continued its activities on the lands acquired. Now, this validating measure will frustrate dealing with the merits of the case by the Supreme Court and we will not be in a position to have a clear interpretation of law in the matter. With these observations, I submit that the Government should withdraw this Bill.

Sri D. PARAMESWARAPPA.—One other point which I wish to submit to the Hon'ble Speaker with which I believe you will kindly agree with me. This is with regard to validating certain proceedings which have been held to be illegal or *ultra vires* by the High Court of Mysore on certain writ petitions filed by certain persons. Now, against that decision the Government have gone up in appeal; whether the procedure adopted by this Government is legal or *ulltra vires* is to be decided by the Supreme Court. It is the highest judiciary in our country. Therefore, my submission to the Hon'ble Speaker is when we concede that the Supreme Court is the highest judiciary in the country and all the States have got to follow the decision of the Supreme Court, that at this stage when the Supreme Court has not given its decision so far as this matter is concerned, the State Legislature is not entitled to discuss this matter.

MR. SPEAKER.—Now, the Hon'ble Member has raised very fine and very subtle point in his argument. But he forgets one distinction. To

(MR. SPEAKER)

say that a certain procedure adopted by the Government or the Land Acquisition Officer or whichever authority it is, is wrong is one thing. If it were wrong, it would be held to be wrong, ultra vires and invalid so that the inherent defect is there in the procedure and that is the decision of the High Court. All that a High Court does is to adjudicate upon the events that have happened and the evidence that is placed before the High Court. So far as the Legislation is concerned, because there is a defect, the Legislature has got the power to say that despite the defect, it shall be deemed to be valid. The High Court cannot say the Legislature is not entitled to enact a Validating Act. The Validating Act, passed by the Legislature does not interfere with the jurisdiction of the High Court. The High Court is still entitled to say or the Supreme Court is still entitled to say that on the basic of the facts leading to the institution of the case, the decision is like this. Then it may consider the Validating Act or it may not consider. If it chooses to consider, it can say that in view of the invalidating Act the circumstances are different and it is unneccessary to go into the matter. But it certainly does not interfere with the course that might be adopted by the Supreme Court. It does not in the least embarrass the Court. It does not oust the jurisdiction because inherent validity is attributable to the facts that have happened prior to the decision, the steps taken, procedure adopted by the Government or the Board under the City Improvement Act. But this is not like that because there is a defect. The Legislature chooses to validate it. Therefore the two ideas are totally different.

SRI K. PUTTASWAMY.—Sir, I am grateful to the Hon'ble Speaker for clarifying the position. My Hon'ble friend Sri Venkatai Gowda said that what I said in my introductory speech was contrary to what is stated in the Objects and Reasons. Sir, if he had listened to me, probably he would not have misunderstood me. I have clarified my position. Sir, when the Hon'ble High Court considered this wrist petition, the Hon'ble High Court has observed like this:

> "The provisions of both the Ordinance and the Amending Act are repugnant to the provisions with respect to the same matter contained in the City of Bangalore Improvement Act which is an existing law as defined in clause 10 of Art. 366 of the Constitution, and that no instructions of the President under the proviso to Article 213 having been received in respect of the Ordinance and the Amending Act not having been reserved for the consideration of the President and not having received his assent, both the Ordinance and the Amending Act are void."

Probably the Hon'ble Member is under the impression that the High Court have expressed the opinion about the validity of acquisiton that has taken place from 1945 to 1960. That is not so. What the High Court considered was the legality of the promulgation of the ordinance without seeking the instruction of the President and not submitting the Bill that was passed for the assent of the President. On these points, the High Court have declared that the Bill as invalid. Sir, it is contended by the State Government that they had the powers because it is an amendment to the City Improvement Trust Board Act. It came in as an amendment to the Act by insertion of Section 27A. It was

(Sri K. PUTTASWAMY)

contended on behalf of the Government that it was not necessary to submit this Amending Bill to the President for his assent. But on that point, the High Court have held against the Government. The Government have preferred an appeal before the Supreme Court. The points at issue before the Supreme Court are quite different from the point that is contained in this Bill. What we seek today in this Bill is to validate the acquisitions that have taken place from 1945 to 1960. Sir, very recently a number of acquisitions have taken place and the Trust Board is not able to effect any improvements. It is not able to lay out roads, form into sites and distribute them. Therefore it has become very necessary to validate the acquisitions that have taken place and the Hon'ble Speaker has clarified the power of the House to validate an invalid Act which has taken place. Therefore, there can be no legal difficulty for proceeding with this Bill. I request this House to kindly take this Bill into consideration. I will put the Bill to the vote of the House.

MR. SPEAKER.—The question is:

"That the Bangalore Acquisition of Lands (Validation) Bill, 1962, be taken into consideration."

The motion was adopted.

MR. SPEAKER.—There are no amendments. I will put clause 2 of the Bill. The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill

MR. SPEAKER.—The question is:

"That clause 1, the Title and the Preamble stand part of the Bill."

The motion was adopted.

Clause 1, the Title and the Preamble were added to the Bill."

Motion to pass.

Sri K. PUTTASWAMY.—I beg to move:

"That the Bangalore Acquisition of Lands (Validation) Bill, 1962, be passed."

MR. SPEAKER.—The question is:

That the Bangalore Acquisition of Lands (Validation) Bill, 1962, be passed."

The motion was adopted.

2-30 P. M.

THE MYSORE HOME GUARDS BILL, 1962.

Motion to Consider.

Sri R. M. PATIL (Minister for Home).—I beg to move:

"That the Mysore Home Guards Bill, 1962, as passed by the Legislative Council be taken into consideration."

MR. SPEAKER.—Motion moved:

"That the Mysore Home Guards Bill, 1962, as passed by Legislative Council, be taken into consideration."

Sri R. M. PATIL.—Sir, this is a Bill containing scheme to safeguard the homes in times of emergency. In an emergency it is not possible either for the military or the police to take care in respect of the safety of the people in almost all localities and towns. Under such circumstances it is necessary to consider the second line of defence in order to protect the properties and lives of people. With that end in view this scheme has been sponsored. The idea of this Bill is not a new thing